

COLLECTING A MONEY JUDGMENT

You won a money judgment in Court; how are you going to collect the money? It is possible that the defendant will pay you upon receipt of the judgment. Quite often they do not. **THE COURT DOES NOT COLLECT FOR YOU.** However, various proceedings are available to you to help you collect the judgment. Collecting on a judgment is not easy and may take time as well as additional court fees. Before spending a great deal of time and money, assess the probability of success. Get a credit report. Does the defendant own real estate? Is he/she employed? If there is no possibility of collection, it may not be wise to spend more money! The judgment will show up on the defendant's credit report automatically and the concern of a negative credit report will cause some people to pay.

SUPPLEMENTAL PROCEEDINGS: The best methods to use to attempt to collect are based on the information you have or can obtain about the defendant's assets or income. In order to obtain information about the defendant's assets and income you may file for "supplemental proceedings" (Judgment Debtor's Exam). This is a court order for the defendant to attend a hearing and bring a list of documents including tax forms, bank statements, employment records, etc. The defendant will be placed under oath and you may ask the defendant questions about their personal finances. In addition to the court's filing fee there will also be a charge for the process server. Personal service of the order that the defendant appear for supplemental proceedings is necessary for it to be an enforceable order.

GARNISHMENT: Garnishment is a process that will enable you to gain access to monies owed to the defendant by others, such as wages, or through monies on deposit in a bank account. A Writ of Garnishment is a court order you may obtain that directs the "Garnishee" (possible employer or bank) to answer questions in writing about whether the defendant receives wages from or has money on deposit with the Garnishee. After the Garnishee files its Answer with the Court, you may apply for an Order directing the Garnishee to release a portion of that money to you.

The Clerk will provide you with Garnishment forms and more detailed information specific to Garnishment proceedings.

There is a \$25.00 fee for issuing a Writ of Garnishment. Additional costs will be incurred for service of the order.

EXECUTION: A Writ of Execution is a court order that allows the Constable to attach any non-exempt personal property of the defendant and hold it for sale at a public auction for the purpose of satisfying the judgment. The clerk can provide you with a writ of execution form. After the writ form is completed and you have paid the issue fee and the Constable's service fee, you will leave it with the clerk for the judge's signature. The signed writ of execution will be forwarded to the Constable of the precinct where the property to be attached is located. If the Constable determines there is insufficient personal property to satisfy the judgment, the writ will be returned unsatisfied. You should contact the Constables office serving the writ if you have specific questions as to how the execution will be made and to find out how much the service fee will be. There are two types of writs of execution. A Special Writ tells the Constable to execute on personal property that is specifically named or identified by the plaintiff. A General Writ tells the Constable to execute on any non-exempt personal property, at the Constable's discretion, that the Constable may find or locate at the address provided by the plaintiff.

There is a \$25.00 fee for the court to issue a Writ of Execution. Additional costs will be incurred for service of the Order by the Constable.

JUDGMENT LIENS ON REAL PROPERTY: This action must be transferred to the Superior Court. Per ARS §22-246 a certified copy of the judgment must be filed with the Clerk of Superior Court who will issue an execution on the judgment. Upon filing this with the County Recorder's Office, a lien will be placed on the defendant's real property. The defendant cannot sell the real property until the lien is satisfied.

JUDGMENT LIENS OF DRIVER'S LICENSES: You may file your judgment with the Motor Vehicle Division if your judgment resulted from an automobile accident with an uninsured driver. This will result in the defendant's driver's license being suspended until the judgment is paid. You must provide the following to the Arizona Motor Vehicle Department:

1. Certified copy of the judgment – at least 60 days after the date of the judgment, if the defendant has not paid (satisfied) the Judgment.
2. "Sixty Day Letter" from the Court – This is a letter from the court that 60 days have expired from the date the judgment was awarded and no "Satisfaction of Judgment" has been filed. This should be requested at the same time as item 1 above. **There is a \$25.00 fee for the certified copy and sixty day letter.**
3. Copy of the Accident Report – Available from the Police Department in whose jurisdiction the accident occurred.

Mail the above items to:
Department of Transportation
Motor Vehicle Division
PO Box 2100 527M
Phoenix AZ 85001

RENEWAL OF JUDGMENT: Your judgment is good for five years and can be renewed up to 90 days prior to expiration. If you do not renew the judgment, none of the above methods to collect will be available to you by law.

There is a \$25.00 fee for filing a Renewal of Judgment

Satisfaction of Judgment

It is your responsibility to file a Satisfaction of Judgment with the court when you have been paid in full on your judgment. You may use the form provided by the court, or you may write a pleading to the court with the case number and name stating that you are the plaintiff and the judgment has been satisfied. Be sure to sign the document.

Further Questions

This is intended to be a general guide to the public and should not be considered exhaustive or even authoritative legal advice. If you have questions that were not sufficiently answered by this guide, you should seek the advice of an attorney.